

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RODNEY E. GAINES,

Petitioner,

v.

JANET DOWLING,

Respondent.

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Case No. CIV-22-543-G

ORDER

Petitioner Rodney E. Gaines, a state prisoner appearing pro se, initiated this federal habeas corpus proceeding and filed an application seeking leave to proceed *in forma pauperis*. Consistently with 28 U.S.C. § 636, the matter was referred to Magistrate Judge Gary M. Purcell for initial proceedings.

On July 25, 2022, Judge Purcell issued a Report and Recommendation (“R. & R.,” Doc. No. 6) recommending that Petitioner’s application for leave to proceed *in forma pauperis* be denied, based on his determination that Petitioner currently has an available balance of \$812.08 in his institutional account, which is sufficient to prepay the \$5.00 filing fee. In the R. & R., Judge Purcell advised Petitioner of his right to object by August 12, 2022. Judge Purcell also advised that a failure to timely object would constitute a waiver of the right to appellate review of the factual findings and legal conclusions contained in the R. & R. *See id.* at 2.

Petitioner has not filed a written objection to the R. & R. within the allotted period or requested additional time to object.

Accordingly, the court ADOPTS the Report and Recommendation (Doc. No. 6). Petitioner's application for leave to proceed *in forma pauperis* (Doc No. 5) is DENIED. Petitioner is advised that unless he pays the \$5.00 filing fee in full to the Clerk of the Court on or before September 19, 2022, or shows good cause for his failure to do so, this action will be dismissed without prejudice. *See* LCvR 3.3(3).

IT IS SO ORDERED this 29th day of August, 2022.



CHARLES B. GOODWIN
United States District Judge